No. _____

Supreme Court, U.S.
FILED

05-279 AUG 15 2005

OFFICE OF THE CLERK

In the

Supreme Court of the United States

ROBERT L. BROCKWAY, JR.

Petitioner,

v.

YALE UNIVERSITY, ET AL

Respondents.

On Petition for a Writ of Certiorari
To the United States Court of Appeals
For the Second Circuit

PETITION FOR WRIT OF CERTIORARI

Robert L. Brockway, Jr.
28 Boston Terrace
Guilford, Connecticut 06437
(203) 214-0202

QUESTIONS PRESENTED

1. Should the Petitioner's application to the United States Court of Appeals for the Second Circuit, for writ of certiorari before judgment, have been dismissed in light of the following?

2. Should Petitioner's writ of certiorari be granted because it is based upon the May 17, 2004, ruling the Supreme Court of the United States of America in Tennessee v. Lane, No 02-1667, 124 S. Ct. 1978, 2004 WL 1085482?

3. The Supreme Court held that Congress validly exercised its power under the Fourteenth Amendment to abrogate states' sovereign immunity, in suits brought under Title II of the Americans with Disabilities Act involving access to courts, and does that holding apply to the Petitioner's case?

4. The Petitioner is disabled, and has filed this writ of certiorari based upon Lane; accordingly, one must ask does this case show an imperative public importance, to justify deviation from normal appellate practice? Does it require an immediate determination in the Supreme Court of the United States of America?

5. Is it possible the focus of Petitioner's case would offer some specificity to Lane, because Lane's language is broad, and that Lane may have other applications of Title II beyond court access?

6. Does the clear evidence that the Petitioner's attorneys: these Respondents, had failed to appear during the deposition of a defendant, shed more light into the depths of their denial of court access by leaving the Petitioner without legal counsel?

PARTIES TO THE PROCEEDINGS

Including the parties named in the caption of this Petition, the parties are:

Petitioner:

ROBERT L. BROCKWAY, JR., of 28 Boston Terrace, Guilford, Connecticut 06437 an individual

Respondents:

YALE UNIVERSITY;JEROME N. FRANK LEGAL SERVICES ORGANIZATION OF YALE LAW SCHOOL; RICHARD C. LEVIN, President of the University, Official Capacity; ROBERT A. SOLOMON, Director of JEROME N. FRANK LEGAL SERVICES ORGANIZATION OF YALE LAW SCHOOL,I/O; ANTHONY T. KRONMAN, Dean of Yale Law School, I/O; CARROLL LEE LUCHT, Law Professor, and Attorney at Law, I/O; STEPHEN WIZNER, Law Professor, and Attorney at Law, I/O.

Yale University of 105 Wall Street, New Haven, Connecticut. Telephone: (203) 432-2550. Yale Law School of 127-133 Wall Street, New Haven. Connecticut. Telephone: (203) 432-1660. Jerome N. Frank Legal Services Organization of 127-133 Wall Street, New Haven, Connecticut. Telephone: (203) 432-4800.

DEPT. OF MENTAL HEALTH, ALBERT J. SOLNIT, M.D., Commissioner of the CT Dept. of Mental Health, Official Capacity; EZRA GRIFFITH, M.D., Director of the CT Mental Health Ctr., I/O; LARRY DAVIDSON, PhD.,Director of Outpatient Services, CT Mental Health Ctr., I/O.

Department of Mental Health, State of Connecticut, of 410 Capitol Avenue, Hartford, Connecticut. Telephone: (860) 418-7000.

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PETITION FOR WRIT OF CERTIORARI

ROBERT L. BROCKWAY, JR, Petitioner Pro Se, respectfully requests that this Court, under appropriate rules of this Court, issue a writ of certiorari to the United States Court of Appeals for the Second Circuit.

OPINIONS BELOW

Petitioner prays for a writ of certiorari to determine whether he has the same legal rights as Lane, as was held in Supreme Court ruling Tennessee v. Lane, No. 02-1667.

The Court record shows that Brockway is disabled, and that his attorneys: these Respondents denied him, his right to lawful Court-access.

The Respondents clearly violated the intent of Lane. Indeed it is true that Lane involves physical access to Courts of Law; nonetheless, the Supreme Court's holding manifests a determined will, to avert all future denial, of Court access no matter the cause

JURISDICTIONAL STATEMENT

Pursuant to Supreme Court Rule 14. The date the United States Court of Appeals for the Second Circuit decided my case was June 17, 2005 and is unpublished.

In accordance with Supreme Court Rule14(g)(ii) the Petitioner submits the following:

1. The Law Student Interns exclusively examined all Defendants during the interrogatories. The students were dedicated, intelligent, and sincere; however, it was apparent that they were engaged "in activities customarily considered to be the practice of law." Rule 3-19 (page 3)

2. The Respondents withdrew from case under a cloud of controversy. Rule 1-7 (page. 2)
3. The Respondents stated that Defendant Larry Davidson "lied during his testimony"; and yet, they indeed did not intercede for Law Student Intern, during Defendant Davidson's interrogatory during Discovery.
4. The Respondents did not show during a Defendant's interrogatory. Petitioner did not have legal counsel present. Nevertheless the Defendant was supported, and examined by his own Defense team.
5. The Respondents withdrew from their representation of Petitioner, and then they filed a legal document during the Petitioner's pro se Appeal without having legal standing, nor filing a court Appearance. Civil Procedure Rule 29.(H) (page.3)

The Connecticut Rules of Court, State and Federal, 1999 RULES OF PROFESSIONAL CONDUCT, RULE 1.3 DILIGENCE states "A lawyer shall act with reasonable diligence and promptness in representing a client."

RULE 1.7 CONFLICT OF INTEREST: GENERAL RULE states "(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, . . ."

3-17. Legal Interns-Activities of Legal Interns states that a legal intern must be "supervised under the supervision of a member of the bar". An intern can "prepare pleadings and other documents to be filed in any matter," and "prepare briefs, abstracts and other documents." All intern work "must be signed by the supervising attorney."

3-18. Legal Interns-Certification of Intern. The certification of the intern "Shall be filed with the clerk of the superior court in Hartford . . ."

3-19. Legal Interns-Unauthorized Practice

"Nothing contained in these rules shall affect the right of any person who is not admitted to the practice of law to do anything he or she might lawfully do prior to their adoption, nor shall they enlarge the rights of persons, not members of the bar or legal interns covered by these rules, to engage in activities customarily considered to be the practice of law."

Civil Procedure Rule 29
(H) Duration of Representation

"1. An appointed attorney shall represent the party to the trial Court from the date he or she enters an appearance until he or she has been relieved from appointment by the Court or until a final judgment is entered in the District Court."

Tennessee v. Lane,
No. 02-1667, 124 S. Ct. 1978, 2004 WL 1085482

On May 17, 2004 Justice Stevens delivered the opinion of the honorable Supreme Court of the United States of America. "For these reasons, we conclude that Title II, as it applies to the class of cases implicating the fundamental right of access to the courts, constitutes a valid exercise of Congress' 5 authority to enforce the guarantees of the Fourteenth Amendment. The judgment of the Court of Appeals is therefore affirmed. It is so ordered."

The Supreme Court of the United States ruled in Tennessee v. Lane, No. 02-1667, 124 S. Ct. 1978, 2004 WL 1085482, that the Congress properly sued in accordance with the Fourteenth Amendment, under Title II of the American with Disabilities Act. The case involved access to courts. The Court's holding expanded the remedies, against discrimination against people with disabilities, in many different areas.

The Court held that Congress properly designed its intent to prevent discrimination, and that Congress has "the authority both to remedy and deter violation of Fourteenth Amendment rights. . .", which includes the right of access to the courts.

The Court's analysis enlightened, the history of unconstitutional discrimination, against people with disabilities. A history of discrimination which includes voting, education, institutionalization, marriage, family rights, etc. All of which could be remedied when constitutionally protected, court access is straight forward, and equitable for all disabled Americans.

Petitioner claims appellate jurisdiction, due to his documented disability revealed within the court record, and how this impacted the need to represent of himself pro se.

A writ of certiorari is warranted, due to the momentous effect this matter will have, upon the aspirations of millions of Americans.

STATEMENT OF CASE

In accordance with Supreme Court of the United States Rule 11, and 28 USC 2101(e) the Petitioner respectfully requests a Writ of Certiorari to the Honorable Supreme Court of the United States of America. On June 17, 2005 the United States Court of Appeals for the Second Circuit dismissed, the Petitioner's Application for Certiorari before Judgment.

This began as an employment discrimination matter, and then developed into a Constitutional one. The evidence supports a denial of the right to fair court access, due to Respondents documented failure, to represent Petitioner with reasonable diligence.

The Petitioner based his appeal on the May 17, 2004 Supreme Court decision in Tennessee v Lane, No. 02-1667,124 S. Ct. 1978, 2004 WL. The Court limited its holding to cases involving access to courts. Because of the broad language in the Court's opinion, it is possible that Lane may have other applications of Title II, which may be valid in Fourteenth Amendment legislation.

The Petitioner asserts that Lane is untested, and its obvious significance, suggests that Brockway should be granted a writ of certiorari. This matter could have a consequential effect, on the productivity of the sizeable population, of disabled individuals in America.

Therefore, it is clear that this matter requires immediate determination in the Supreme Court of the United States, because this case is of such imperative public importance, as to justify deviation from normal appellate practice. Supreme Court Rule 11.

REASONS FOR GRANTING PETITION

1. The court record shows that the Petitioner is forced to represent himself, and has made several documented attempts, to obtain legal counsel.
2. The court record shows that the Petitioner is disabled, and claims a violation of Tennessee v Lane, No. 02-1667, 12 4 S. Ct. 1978, 2004 WL 1085482 adjudged on May 27, 2004 by the Supreme Court of the United States of America.
3. The court record shows that on April 17, 1997 these Respondents did not appear at Defendant, Ezra Griffith, M.D.'s interrogatory during Discovery. Petitioner was left without legal counsel during proceedings.
4. The court record shows that the Respondents after withdrawing as counsel for the Petitioner, did in fact submit a legal document without legal standing, and without filing an Appearance during the Petitioner's pro se Appeal.
5. The court record shows that Law Student Interns, exclusively examined all Defendants, during Discovery. Where these students qualified to do so?
6. The Petitioner's Application for Writ of Certiorari before judgment, seeks a judicial interpretation in regard to whether Brockway shares, the same expressed legal rights as Lane. Is there a linkage? Is there a breach of Lane?
7. A petition for Writ of Certiorari is filed because the evidence shows this is a case of imperative public importance, and it justifies a deviation from normal appellate practice. The history of this case holds, that it requires immediate determination, in the Supreme Court of the United States of America.

CONCLUSION

THEREFORE, Petitioner ROBERT L. BROCKWAY, JR. requests this Honorable Court to GRANT his Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit.

Respectfully submitted,

ROBERT L. BROCKWAY, JR.
28 Boston Terrace
Guilford, Connecticut 06437
(203) 214-0202

Petitioner Pro Se

Date: August 29, 2005

In the
Supreme Court of the United States

ROBERT L. BROCKWAY, JR.
Petitioner,

v.

YALE UNIVERSITY, ET AL.

Respondents.

On Petitioner For a Writ of Certiorari
To the United States Court of Appeals
For the Second Circuit

APPENDIX

Robert L. Brockway, Jr.
28 Boston Terrace
Guilford, Connecticut 06437
(203) 214-0202

03-cv-0609
Underhill, J.

United States Court of Appeals
for the
SECOND CIRCUIT

At the stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, Foley Square, in the City of New York, on the 17th day of June two thousand and five,

(official seal)

Present: (UNITED STATES COURT OF APPEALS)
Hon. Reena Raggi, (Filed)
Circuit Judge (JUN 17 2005)
Hon. Leonard B. Sand, (Roseann B. MacKechnie,CLERK)
Circuit Judge (SECOND CIRCUIT)

Robert L. Brockway, Jr.,

Plaintiff-Appellant,

v. 05-0216-cv

Yale University, et al,

Defendants-Appellees.

Appellant, pro se, appeals the district court's denial of his motion to "move this matter to the Supreme Court of the United States of America," and moves in this Court "to move this matter to the Supreme Court of the United States of America,""to submit full address for medical records," "for resubmission of motion to submit the complete deposition of one Ezra Griffith, M.D.," and to "resubmit" his application for a writ of certiorari to the Supreme Court. Upon due consideration, it is ORDERED that the appeal is DISMISSED because "it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); see *Pillay v. INS*, 45 F.3d 14, 17 (2d Cir. 1995) ("[T]his court has inherent authority, wholly aside from any statutory warrant, to dismiss an

The Honorable Jose A. Cabranes, originally a member of the panel sitting on June 15, 2005, recused himself from consideration of this case. The remaining members of this panel, who are in agreement, have decided the case pursuant to 2d Cir R. 0.14(b).

The Honorable Leonard B. Sand, Senior Judge of the United States District Court for the Southern District of New York, sitting by designation.

appeal or petition for review as frivolous when the appeal or petition presents no arguably meritorious issue for our consideration."). The pending motions are likewise denied.

FOR THE COURT,
Roseann B. MacKechnie, Clerk

By: /s/Lucille Carr

SD District Version 1.3

Orders on Motions
3:03-cv-00609-SRU Brockway v. Yale Univ, et al **CASE CLOSED ON 2/17/2004**

U.S. District Court

District of Connecticut

Notice of Electronic Filing

The following transaction was received from Sbalbi, B. entered on 12/16/2004 at 9:47 AM EST and filed on 12/16/2004
Case Name: Brockway v. Yale Univ, et al
Case Number: 3:03-cv-609
Filer:
WARNING CASE CLOSED ON 12/17/2004
Document Number: 88

Docket Text:
ELECTRONIC ENDORSEMENT ORDER. THIS IS THE ONLY NOTICE THE COURT WILL ISSUE. ORDER denying [87] Motion to move action to the Supreme Court. The Court has no authority to order the Supreme Court to consider this matter. Signed by Judge Stefan R. Underhill on 2/16/04. (Sbalbi, B.)

The following documents(s) are associated with this transaction:

3:03-cv-609 Notice will be electronically mailed to:

Brock Thomas Dubin bdubin@ddnctlaw.com,

Patrick M. Noonan pnoonan@ddnctlaw.com

3:03-cv-609 Notice will be delivered by other means to:

Robert L. Brockway
28 Boston Terrace
Guilford, CT 06437

SDSD District Version 1.3
https://ecf.ctd.circ2.dcn/cgi-bin/Dispatch.pl?830886399783 28

Orders on Motions
3:03-cv-00609-SRU Brockway v. Yale Univ, et al **CASE CLOSED on 02/17/2004**

U.S. District Court

District of Connecticut

Notice of Electronic Filing

The following transaction was received from Sbalbi, B. entered on 11/30/2004 at 2:08 PM EST and filed on 11/30/2004

Case Name: Brockway v. Yale Univ, et al
Case Number: 3:03-cv-609
Filer:
WARNING: CASE CLOSED on 12/17/2004
Document Number: 84

Docket Text:
ELECTRONIC ENDORSEMENT ORDER. THIS IS THE ONLY NOTICE THE COURT WILL ISSUE. ORDER denying as moot [81] Motion to attach copy of summary order as documentation. Signed by Judge Stefan R. Underhill on 11/30/04. (Sbalbi,B.)

The following document(s) are associated with this transaction:

3:03-cv-609 Notice will be electronically mailed to:

Brock Thomas Dubin bdubin@ddnctlaw.com,

Patrick M. Noonan pnoonan@ddnctlaw.com

3:03-cv-609 Notice will be delivered by other means to:

Robert L. Brockway
28 Boston Terrace
Guilford, CT 06437

SDSD District Version 1.3
https://ecf.ctd.circ2.den/cgi-bin/Dispatch.pl?870850878085 28

Orders on Motions
3:03-cv-00609-SRU Brockway v. Yale Univ, et al **CASE CLOSED on 02/17/2004**

U.S. District Court

District of Connecticut

Notice of Electronic Filing

The following transaction was received from Sbalbi, B. entered on 11/30/2004 at 2:09 PM EST and filed on 11/30/2004

Case Name: Brockway v. Yale Univ, et al
Case Number: 3:03-cv-609
Filer:
WARNING: CASE CLOSED on 12/17/2004
Document Number:85

Docket Text:
ELECTRONIC ENDORSEMENT ORDER. THIS IS THE ONLY NOTICE THE COURT WILL ISSUE. ORDER denying [82] Motion for Hearing. Signed by Judge Stefan R. Underhill on 11/30/04. (Sbalbi,B.)

The following document(s) are associated with this transaction:

3:03-cv-609 Notice will be electronically mailed to:

Brock Thomas Dubin bdubin@ddnctlaw.com,

Patrick M. Noonan pnoonan@ddnctlaw.com

3:03-cv-609 Notice will be delivered by other means to:

Robert L. Brockway
28 Boston Terrace
Guilford, CT 06437

03cv609Jgm

#54

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT
2004 FEB 17 P 1:46

ROBERT L. BROCKWAY, JR.

v. 3:03cv609(SRU)

YALE UNIVERSITY, RICHARD C LEVIN, ROBERT A. SOLOMON, ANTHONY T. KRONMAN, CARROLL LEE LUCHT, JEROME N. FRANK LEGAL SERVICE ORGAN(I)ZATION OF YALE LAW SCHOOL, STEPHEN WIZNER

JUDGMENT

This matter came on before the Honorable Stefan R. Underhill, United States District Judge, as a result of the defendants' motion to dismiss.

The Court has reviewed all of the papers filed in conjunction with the motion and oral argument was held on February 12, 2004 granting the defendants' motion to dismiss.

Therefore, it is ORDERED and ADJUDGED that judgment is entered for the defendants and the case is closed.

Dated at Bridgeport, Connecticut, this 17th day of February, 2004.

Kevin F. Rowe, Clerk

By/s/Alice Montz
Deputy Clerk

Entered on Docket 2/20/04

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

Motion Calendar

Stefan R. Underhill, U.S.D.J.
915 Lafayette Boulevard
Bridgeport
Courtroom #1, 4th Floor

February 12, 2004

3:00 p.m.

UPON RECEIPT OF THIS CALENDAR, COUNSEL ARE INSTRUCTED TO CONFER WITH OPPOSING COUNSEL AND CONFIRM THAT ALL COUNSEL OF RECORD HAVE NOTICE OF THE ARGUMENT IN THEIR CASE.

COUNSEL SHALL BE PREPARED TO ARGUE WITH PARICULARITY THE MOTIONS AT ISSUE. THE COURT WILL HAVE THOROUGHLY REVIEWED THE PAPERS, SO THAT COUNSEL NEED NOT RESTATE BACKGROUND OR ARGUMENTS SET FORTH IN THE BRIEFS. AFTER HIS QUESTIONS HAVE BEN ANSWERED, JUDGE UNDERHILL MAY RULE ON THE MOTIONS FROM THE BENCH.

NO FURTHER EXTENSIONS WILL BE GRANTED.

CASE NO. **3:03cv609** **Brockway v Yale**

All Pending Motions

Robert L. Brockway, Jr.
28 Boston Terrace
Guilford, CT 06437

Brock Thomas Dubin
Delaney, Zemetis, Donahue, Durham, & Noon(an)
Concept Park
741 Boston Post Rd.
Guilford, CT 06437

Patrick M. Noonan
Delaney, Zemetis, Donahue, Durham and Noon(an)
Concept Park
741 Boston Post Rd.
Guilford, CT 06437

BY ORDER OF THE COURT
KEVIN F. ROWE, CLERK